

15:26:28 1 Q. How about a DS3 not on fiber?

26:32 2 A. The only way to deploy fiber is other DS3s

15:26:38 3 using fiber.

4 Q. Is that right?

15:26:40 5 A. It's a fiber based system.

15:26:43 6 Q. You can't do it electrical?

15:26:46 7 A. There's a limitation on how far the electrical

15:26:50 8 signal can go.

15:26:50 9 Q. So once you're outside of that, you have to go

15:26:53 10 to fiber?

15:26:54 11 A. Yes.

15:27:06 12 Q. And you have been selling special access

15:27:13 13 circuits for 12 years, correct?

15:27:14 14 A. Yes.

15:27:15 15 Q. And how long have you had Qwest as a customer?

15:27:21 16 A. Two and a half years.

15:27:22 17 Q. Two and a half years, okay. So for Qwest

15:27:26 18 you've sold basically wholesale circuits for those two

15:27:31 19 and a half years, correct?

15:27:31 20 A. Yes.

15:27:38 21 MR. CRAWFORD: I think that's all the

15:27:39 22 questions we have for Mr. Cunningham right now. We

15:27:42 23 reserve the right to recall him. Pass the witness.

24 EXAMINATION

27:47 25 BY MR. HARTLEY:

15:27:47 1 Q. Mr. Cunningham, are you familiar with the SBC
27:51 2 Code of Business Conduct?

15:27:51 3 A. Yes, I am.

15:27:53 4 Q. Does the code of business conduct have any
15:27:55 5 provisions relating to the access and/or use of
15:27:59 6 proprietary information?

15:27:59 7 A. Yes, it does.

15:28:00 8 Q. Can you generally relate to us what those
15:28:04 9 provisions are as they would pertain or may pertain to
15:28:07 10 your job?

15:28:08 11 A. The way I interpret the code of business
15:28:11 12 conduct and related to customer information and
15:28:14 13 proprietary information is that that's information not
15:28:21 14 used for marketing purposes. If you are looking at -- I
15:28:27 15 mean for -- for marketing purposes.

15:28:29 16 Q. Does the TIRKS database contain proprietary
15:28:33 17 information?

15:28:34 18 A. Yes, it does.

15:28:36 19 Q. Once an individual, yourself, another
15:28:39 20 employee, whoever, has access to TIRKS, is there any
15:28:43 21 limitation within the database itself as to what
15:28:46 22 information can be accessed by that person?

15:28:50 23 A. There is not --

15:28:51 24 Q. Other than their innate knowledge perhaps?

28:54 25 A. No, there's no limitation on what can be

15:28:57 1 accessed through TIRKS once you have access to the
 29:00 2 database.

15:29:01 3 Q. To your knowledge, can Southwestern Bell
 15:29:03 4 monitor an individual's use of the TIRKS database?

15:29:06 5 A. Not to my knowledge.

15:29:07 6 Q. Can Southwestern Bell impose restrictions on
 15:29:10 7 an individual's use of the database?

15:29:12 8 A. Not to my knowledge.

15:29:14 9 MR. HARTLEY: Pass the witness.

10 EXAMINATION

15:29:25 11 BY MR. CRAWFORD:

15:29:25 12 Q. Mr. Cunningham, have you ever heard of CPNI?

15:29:31 13 A. Yes..

15:29:33 14 Q. Do you know what it is?

15:29:33 15 A. Customer proprietary network interface or
 15:29:34 16 network information.

15:29:38 17 Q. Do you know which it is?

15:29:39 18 A. It can be both.

15:29:41 19 Q. Have you ever received any training about use
 15:29:44 20 of CPNI?

15:29:45 21 A. In which circumstance?

15:29:48 22 Q. Has SWBT ever provided company sanctioned
 15:29:55 23 training for CPNI obligations for you?

15:29:58 24 A. Which definition of CPNI are we looking at
 30:02 25 addressing?

15:30:03 1 Q. Either one.

15:30:05 2 A. For the customer proprietary network

15:30:08 3 information that is part of the code of business

15:30:11 4 conduct, which is reviewed annually and I sign off on it

15:30:17 5 every year that I've reviewed it and understand it.

15:30:21 6 Q. And what does the code of business conduct say

15:30:25 7 about customer proprietary network information?

15:30:29 8 A. That it should not be used for marketing

15:30:32 9 purposes. It should be -- it should remain customer

15:30:36 10 proprietary information used at the customer's request.

15:30:43 11 Q. What is an example of some customer

15:30:49 12 proprietary network information that you should not use

15:30:54 13 for marketing purposes?

15:30:54 14 A. I should not look at end user locations on

15:30:56 15 capacity that are available.

15:31:06 16 Q. Who told you that that was CPNI?

15:31:11 17 A. That was my interpretation.

15:31:12 18 Q. So SWBT's never told you that was CPNI?

15:31:21 19 A. I believe -- that's what my understanding is

15:31:25 20 in the code of business conduct.

15:31:27 21 Q. No one at SWBT has ever told you that end user

15:31:31 22 capacity information is CPNI, have they? I think we

15:31:37 23 covered this earlier.

15:31:38 24 A. Right.

15:31:39 25 Q. That's correct, right?

15:31:41 1 A. Nobody has told me that.

15:31:42 2 Q. And you've never received any formal training
15:31:45 3 from your employer, Southwestern Bell Telephone Company,
15:31:49 4 as to what is CPNI, have you?

15:31:51 5 A. Not formal, no.

15:31:53 6 Q. Other than signing a statement once a year
15:31:56 7 that says you've read the code of business conduct,
15:32:00 8 there is no other mention of CPNI to you by your
15:32:05 9 employer, right?

15:32:06 10 A. I sign that I reviewed and I understand what
15:32:09 11 the code of business conduct guidelines are.

15:32:12 12 Q. Other than that, there has been no other CPNI
15:32:16 13 training to you, has there?

15:32:17 14 A. No.

15:32:17 15 Q. What about your other definition of CPNI,
15:32:23 16 customer proprietary network interface? Has there been
15:32:26 17 any training on that?

15:32:26 18 A. That's interface at the customer location,
15:32:29 19 that's the demarc, so it's a piece of equipment.

15:32:32 20 Q. That's a technical term. That's not a
15:32:35 21 proprietary information CPNI issue, correct?

15:32:38 22 A. Right.

15:32:40 23 MR. CRAWFORD: That's all I have.

15:32:41 24 MR. HARTLEY: We reserve the rest of
15:32:43 25 ours.

15:32:43

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MR. CRAWFORD: Us, too.

(Deposition adjourned at 3:32 p.m.)

	CHANGES AND SIGNATURE	
1		
2	WITNESS NAME: DWAYNE CUNNINGHAM	
3	PAGE	LINE CHANGE REASON
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DICKMAN DAVENPORT, INC.

(214) 855-5100 www.dickmandavenport.com (800) 445-9548

1 I, DWAYNE CUNNINGHAM, have read the
2 foregoing deposition and hereby affix my signature that
3 same is true and correct, except as noted above.

4
5 _____
6 DWAYNE CUNNINGHAM

7 THE STATE OF _____)
8 COUNTY OF _____)

9
10 Before me, _____, on this
11 day personally appeared DWAYNE CUNNINGHAM, known to me
12 (or proved to me under oath or through
13 _____) (description of identity card or
14 other document) to be the person whose name is
15 subscribed to the foregoing instrument and acknowledged
16 to me that they executed the same for the purposes and
17 consideration therein expressed.

18 Given under my hand and seal of office this
19 _____ of _____, 2002.

20
21
22 _____
23 NOTARY PUBLIC IN AND FOR
THE STATE OF _____

24 My Commission Expires: _____

25

1 DOCKET NO. 25004

2 Complaint and Request of)

3 EL PASO NETWORKS, LLC,)

4 For Interim Ruling for Post) BEFORE THE PUBLIC

5 Interconnection Agreement) UTILITY COMMISSION

6 Dispute Resolution With) OF TEXAS

7 Southwestern Bell Telephone)

8 Company)

7 DOCKET NO. 25188

8 Petition of)

9 EL PASO NETWORKS, LLC,)

10 For Arbitration Pursuant to)

11 Section 252(b) of the) BEFORE THE PUBLIC

12 Communications Act of 1934,) UTILITY COMMISSION

13 as amended by the) OF TEXAS

14 Telecommunications Act of)

15 1996, and PURA for Rates,)

16 Terms, and Conditions of)

17 Interconnection Agreement)

18 with Southwestern Bell)

19 Telephone)

16 REPORTER'S CERTIFICATION

17 DEPOSITION OF DWAYNE CUNNINGHAM

18 APRIL 10, 2002

19 I, Nancy P. Blankenship, Certified Shorthand

20 Reporter in and for the State of Texas, hereby certify

21 to the following:

22 That the witness, DWAYNE CUNNINGHAM, was duly

23 sworn by the officer, and that the transcript of the

24 oral deposition is a true record of the testimony given

25 by the witness;

1 That the deposition transcript was submitted
2 on April 12, 2002, to the witness or to the attorney for
3 the witness for examination, signature and return to me
4 by May 3, 2002.

5 That the amount of time used by each party at
6 the deposition is as follows:

7 MR. STEPHEN CRAWFORD - 2 HOURS, 54 MINUTES

8 MR. FLOYD HARTLEY - 2 MINUTES

9 That pursuant to information given to the
10 deposition officer at the time said testimony was taken,
11 the following includes counsel for all parties of
12 record:

13 Mr. Stephen Crawford, Attorney for El Paso Networks, LLC

14 Mr. Floyd Hartley, Attorney for Southwestern Bell
15 Telephone Company

16 I further certify that I am neither counsel
17 for, related to, nor employed by any of the parties or
18 attorneys in the action in which this proceeding was
19 taken, and further that I am not financially or
20 otherwise interested in the outcome of the action.

21 Further certification requirements pursuant to
22 Rule 203 of TRCP will be certified to after they have
23 occurred.

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Certified to by me this 12th day of April,
2002.



Nancy P. Blankenship, Certified
Shorthand Reporter No. 7351
in and for the State of Texas
Dickman Davenport, Inc.
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3838 Oak Lawn Avenue
Dallas, Texas 75204
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www.dickmandavenport.com
My commission expires 12/31/02

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SWB

March 20, 2002

DOCKET NO. 25004

RECEIVED

02 MAR 20 PM 3:04

PUBLIC UTILITY COMMISSION
FILING CLERK

COMPLAINT AND REQUEST FOR
INTERIM RULING OF EL PASO
NETWORKS, LLC FOR POST
INTERCONNECTION AGREEMENT
DISPUTE RESOLUTION WITH
SOUTHWESTERN BELL
TELEPHONE

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PUBLIC UTILITY COMMISSION
OF TEXAS

DOCKET NO. 25188

PETITION OF EL PASO NETWORKS,
LLC FOR ARBITRATION
PURSUANT TO SECTION 252(B)
OF THE ACT OF 1934, AS AMENDED
BY THE TELECOMMUNICATIONS
ACT OF 1996, AND PURA FOR
RATES, TERMS, AND CONDITIONS
OF INTERCONNECTION
AGREEMENT WITH SOUTHWESTERN
BELL TELEPHONE

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PUBLIC UTILITY COMMISSION
OF TEXAS

**SOUTHWESTERN BELL TELEPHONE, LP'S RESPONSE TO EL PASO NETWORKS,
LLC'S FIRST REQUEST FOR INFORMATION (NON-COST)**

Page(s)

SWBT's Response to El Paso Networks 1st RFI

6

Attachments

49

SWBT's Confidential Documents, Filed Under Seal, Bates Range:

SWBT/TX 25004/25188/EPN RFI NC 1-7-1 to SWBT/TX 25004/25188/EPN RFI NC 1-7-2

SWBT/TX 25004/25188/EPN RFI C RFI 1-10-1

SWBT/TX 25004/25188/EPN RFI NC 1-17-4 to SWBT/TX 25004/25188/EPN RFI NC 1-17-33

Confidential (Electronic):

SWBT/TX 25188/EPN COST A 000069

SWBT/TX 25188/EPN COST B 000037

SWBT/TX 25188/EPN COST C 000616

SWBT/TX 25188/EPN COST C 000617

SWBT/TX 25188/EPN COST D 000115

SWBT/TX 25188/EPN COST E 000335

RFI NON-COST 1-3

Please state, for all CLECs except EPN, how many CLEC requests for UNE dark fiber SWBT received in 2001 and how many of those requests were rejected because no facilities were available for the CLEC.

Answer: Subject to and without waiving objections filed on March 8, 2002, SWBT provides the following response:

See below for the number of UNE Dark Fiber requests SWBT received in 2001 for all CLECs except EPN, and the number of those rejected because no facilities were available (based on a manual review of the requests).

Total: 95

Rejections: 49

Responsible Person: Janet D. Copeland
General Manager-Network Sales Support
Southwestern Bell Telephone Company
One SBC Plaza, Room 2360.10
Dallas, TX 75202

RFI NON-COST 1-4

Please state how many requests for DS3 special access service SWBT received in 2001 and how many of those requests were rejected because no facilities were available for the customer.

Answer: Subject to and without waiving objections filed on March 8, 2002, SWBT provides the following response:

SWBT received 2,738 requests for DS3 special access in 2001. None were rejected because facilities were not available.

Responsible Person: Gwen Fischer
Senior Technical Consultant-NSS
Southwestern Bell Telephone Company
1001 S Kirkwood Rd., Room 03-Q-13
Kirkwood, MO 63122

RFI NON-COST 1-5

Please state how many CLEC requests for DS3 UNE loops SWBT received in 2001 and how many of those requests were rejected because no facilities were available for the CLEC.

Answer: Subject to and without waiving objections filed on March 8, 2002, SWBT provides the following response:

See below for the number of DS3 UNE loop requests SWBT received in 2001, and the number of those rejected because no facilities were available (based on a manual review of the requests).

Total: 237

Rejections: 119

Responsible Person: Janet D. Copeland
General Manager-Network Sales Support
Southwestern Bell Telephone Company
One SBC Plaza, Room 2360.10
Dallas, TX 75202